IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 99 (M/S) of 2006

Shanti Prasad Badoni,
S/o Sri Nand Ram Badoni,
R/o Village Naingaon, Post Office Marod.
District – Tehri Garhwal. ..... Petitioner

Vs

1. State of Uttaranchal through
   Secretary, Panchayati Raj, Civil Secretariat,
   Uttaranchal, Dehradun.
2. District Panchayat Raj Officer, Tehri Garhwal.
3. Bhagat Singh,
   S/o Sri Mahanand,
   R/o Village Bhutgaon, Post Office- Marod,
   District- Tehri Garhwal. ....Respondents

Sri Rajendra Dobhal learned counsel for the petitioner.
Sri R.C. Arya learned standing counsel for the respondent Nos. 1 and 2.
Sri Parikshit Saini learned counsel for the respondent No.3.

Dated: -13-9-2006

Hon'ble B.S. Verma, J.

Heard Sri Rajendra Dobhal learned counsel for the petitioner, Sri R.C. Arya learned standing counsel for the respondent Nos.1 and 2 and Sri Parikshit Saini learned counsel for the respondent No.3.

The present writ petition has been filed by the petitioner for issue a writ, order or direction in the nature of certiorari quashing the impugned notice dated 24.1.2006 (Annexure No.1 to the writ petition) on the ground that it is clear from the impugned notice that the notice for intention to move the motion for removal of petitioner under Section 14 of the U.P. Panchayat Raj Act, 1947***(hereinafter referred to as Act, 1947)*** was served upon the District Panchayat Raj Officer, Tehri Garhwal by respondent No.3 alone and no other member, who has signed the notice, was present at the time of service of notice upon the District Panchayat Raj Officer, Tehri Garhwal and as such the mandatory requirements, prescribed under Rule 33 (B) of Rules,

1947, have been violated and the entire proceedings against the petitioner is vitiated and illegal.

It has been further contended that the minimum time prescribed under Section 14 the U.P. Panchayat Raj Act, 1947 is that 15 days notice shall be served upon the Pradhan concerned against whom no confidence motion is to be moved. The notice was delivered to the petitioner on 10-2-2006 and the meeting was to convened on 20-2-2006. It is a clear violation of Section 14 of the Act 1947. This fact has not been disputed by both the parties.

In view of the above facts, the notice for no confidence motion was not served 15 days before on the Pradhan.

Section 14 of the Act, 1947 deals with the removal of Gram Pradhan by way of no confidence motion. The Section 14 of Act, 1947 is being reproduced hereunder:-

"14. Removal of Pradhan or Up-Pradhan:-

(1) The (Gram Panchayat) may, at a meeting specially convened for the purpose and of which at least 15 days previous notice shall be given to remove the Pradhan by a majority of two third of (all the then members).

(2) A meeting for the removal of a Pradhan shall not be convened within (two years) of his election.

(3) If the motions is not taken up for want of quorum or fails for lack of requisite majority at the meeting, no subsequent meeting for the removal of the same Pradhan shall be convened within (two years) of the date of the previous meeting.

(4) Subject to the provisions of this Section, the procedure for the removal of a Pradhan, including that to be followed at such meeting, shall be such as may be prescribed."

It reveals from Section 14 of the Act, 1947 that the Gram Panchayat may, at a meeting specially convened for the purpose and of which

at least 15 days previous notice shall be given to remove the Pradhan by a majority of two-third of all the then members.

In view of mandatory provision of Section 14 of Act, 1947, the impugned notice dated 24-1-2006 is liable to be set aside and is hereby set aside.

In view of the above, the writ petition is allowed. However, the District Panchayat Raj Officer may proceed against the petitioner for no confidence motion afresh in accordance with law.

(B. S. Verma, J.)

Dated:- 13-9-2006

M.K.